

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

_____) Civil Action No. 00-2128
ROYAL INSURANCE COMPANY OF)
AMERICA, an Illinois Corporation, ROYAL) The Hon. Francis X. Caiazza
INDEMNITY CO., a Delaware Corporation,) Chief Magistrate Judge
and AMERICAN AND FOREIGN)
INSURANCE COMPANY, a Delaware) <u>PLAINTIFF'S MOTION FOR LEAVE TO</u>
Corporation,) <u>FILE A SUPPLEMENTAL</u>
Plaintiffs,) <u>MEMORANDUM IN SUPPORT OF</u>
vs.) <u>PROPOSED FINDINGS OF FACT AND</u>
LATROBE CONSTRUCTION COMPANY,) <u>CONCLUSIONS OF LAW</u>
Defendant.)
_____) ELECTRONICALLY FILED

**PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUPPLEMENTAL MEMORANDUM
IN SUPPORT OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

AND NOW, come Plaintiffs, and file this Motion for Leave to File a Supplemental Memorandum in Support of Proposed Findings of Fact and Conclusions of Law.

The purpose for the Supplemental Memorandum, attached hereto, is to advise the Court of the August 1, 2005 decision of *Boral Indus. v. Cont'l Cas. Co.*, 2005 U.S. App. LEXIS 15965 (11th Cir. 2005), in which the Eleventh Circuit recognized that an unqualified and unambiguous "right to settle" provision provides the carrier with the "unfettered right to settle claims." *Id.* at *3-4. The Court's decision is particularly persuasive in light of the comprehensive regulatory process through which the relevant insurance policy language came to be statutorily mandated, which is also addressed in the proposed Supplemental Memorandum.

WHEREFORE, Royal respectfully requests that this Honorable Court grant its Motion for Leave to File this Supplemental Memorandum in Support of Proposed Findings of Fact and Conclusion of Law.

Respectfully submitted,

s/Bruce C. Fox

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Insurance Company

Dated: August 24, 2005

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has on the 24th day of August 2005, served a copy of the within *Plaintiff's Motion for Leave to File a Supplemental Memorandum in Support of Proposed Findings of Fact and Conclusions of Law* and *Plaintiff's Supplemental Memorandum in Support of Proposed Findings of Fact and Conclusions of Law* on the person and at the address listed below via U.S. mail, 1st class:

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s/Bruce C. Fox
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